

STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
15 DHC 53

THE NORTH CAROLINA STATE BAR, )

Plaintiff )

v. )

MARLON BRENT MESSER, Attorney, )

Defendant )

ANSWER

Defendant Marlon Brent Messer ("Messer") responds to the Complaint of the North Carolina State Bar as follows:

1. The allegations of Paragraph 1 are admitted.
2. The allegations of Paragraph 2 are admitted.
3. The allegations of Paragraph 3 are admitted.
4. The allegations of Paragraph 4 are admitted.
5. The allegations of Paragraph 5 are admitted.

6. In regard to the allegation of Paragraph 6, it is admitted that Messer as a formal matter was president and sole owner of LHG. In substance, however, the beneficial owner of LHG was Brent Phillips, an attorney licensed in the States of California, Maryland and Arizona. Upon information and belief, LHG has ceased all business operations.

Messer further admits that he has stated in a Declaration that "I am the president and the sole owner of Legal Help Group, APC," and further that "I was responsible for representing Legal Help Group's clients in the State of North Carolina." This Declaration was drafted by Brent Phillips for execution by Messer, and is misleading to the extent that it overstates Messer's role in the ownership and operation of LHG.

At the time of the execution of the incorporating documents for LHG, Messer believed that he and Brent Phillips were to be partners. Phillips offered to name Messer

as President. Only after Philips sent the Declaration referenced above did Messer realize that LHG was exclusively in Messer's name. Philips had informed Messer in May of 2014, several months prior to the execution of the Declaration on August 19, 2014, that LHG was no longer accepting new clients and was in the process of winding down its affairs.

Phillips was disciplined by the State Bar of California by Order dated December 23, 2013 for providing legal services similar to that of LHG in states where he was not licensed to practice law. Messer is informed and believes and therefore alleges that Phillips intentionally duped him into serving on a "front" for LHG in order to conceal Philip's true role as de facto owner and principal of LHG.

Messer therefore denies the allegation that he "was and is responsible for all its, LGH's activities and services, including those specifically in North Carolina." Except as expressly admitted herein, the remainder of the allegations of Paragraph 6 are denied.

7. The allegations of Paragraph 7 are admitted.
8. The allegations of Paragraph 8 are admitted.
9. The allegations of Paragraph 9 are admitted on information and belief.
10. The allegations of Paragraph 10 are admitted.
11. The allegations of Paragraph 11 are admitted.
12. The allegations of Paragraph 12 are admitted. In addition, Messer incorporates by reference his response to Paragraph 6 above.

#### FIRST CLAIM FOR RELIEF

13. Messer incorporates his responses to Paragraphs 1 through 12 in response to Paragraph 13.
14. Messer does not deny the allegations of Paragraph 14. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
15. Messer does not deny the allegations of Paragraph 15. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
16. Messer does not deny the allegations of Paragraph 16. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

17. Messer does not deny the allegations of Paragraph 17. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
18. Messer does not deny the allegations of Paragraph 18. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
19. Messer does not deny the allegations of Paragraph 19. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
20. Messer does not deny the allegations of Paragraph 20. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
21. Messer does not deny the allegations of Paragraph 21. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
22. Messer does not deny the allegations of Paragraph 22. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
23. Messer does not deny the allegations of Paragraph 23. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
24. Messer does not deny the allegations of Paragraph 24. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
25. Messer does not deny the allegations of Paragraph 25. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
26. Messer does not deny the allegations of Paragraph 26. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
27. Messer does not deny the allegations of Paragraph 27. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

#### SECOND CLAIM FOR RELIEF

28. Messer incorporates his responses to Paragraphs 1 through 12 in response to Paragraph 28.
29. Messer does not deny the allegations of Paragraph 29. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
30. Messer does not deny the allegations of Paragraph 30. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
31. Messer does not deny the allegations of Paragraph 31. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
32. Messer does not deny the allegations of Paragraph 32. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
33. Messer does not deny the allegations of Paragraph 33. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
34. Messer does not deny the allegations of Paragraph 34. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
35. Messer does not deny the allegations of Paragraph 35. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
36. Messer does not deny the allegations of Paragraph 36. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
37. Messer does not deny the allegations of Paragraph 37. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

#### THIRD CLAIM FOR RELIEF

38. Messer incorporates his responses to Paragraphs 1 through 12 in response to Paragraph 38.

39. Messer does not deny the allegations of Paragraph 39. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
40. Messer does not deny the allegations of Paragraph 40. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
41. Messer does not deny the allegations of Paragraph 41. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
42. Messer does not deny the allegations of Paragraph 42. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
43. Messer does not deny the allegations of Paragraph 43. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
44. Messer does not deny the allegations of Paragraph 44. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
45. Messer does not deny the allegations of Paragraph 45. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
46. Messer does not deny the allegations of Paragraph 46. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
47. Messer does not deny the allegations of Paragraph 47. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
48. Messer does not deny the allegations of Paragraph 48. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.
49. Messer does not deny the allegations of Paragraph 49. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

50. Messer does not deny the allegations of Paragraph 50. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

51. Messer does not deny the allegations of Paragraph 51. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

52. Messer does not deny the allegations of Paragraph 52. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

53. Messer does not deny the allegations of Paragraph 53. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

#### FOURTH CLAIM FOR RELIEF

54. Messer incorporates his responses to Paragraphs 1 through 12 in response to Paragraph 54.

55. Messer does not deny the allegations of Paragraph 55. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph, other than as related to him after the fact by S.M.

56. Messer does not deny the allegations of Paragraph 56. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph, other than as related to him after the fact by S.M.

57. Messer does not deny the allegations of Paragraph 57. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph, other than as related to him after the fact by S.M.

58. Messer does not deny the allegations of Paragraph 58. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph, other than as related to him after the fact by S.M.

59. Messer does not deny the allegations of Paragraph 59. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph, other than as related to him after the fact by S.M.
60. Messer does not deny the allegations of Paragraph 60. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph, other than as related to him after the fact by S.M.
61. Messer does not deny the allegations of Paragraph 61. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph, other than as related to him after the fact by S.M.
62. Messer does not deny the allegations of Paragraph 62. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph, other than as related to him after the fact by S.M.
63. Messer does not deny the allegations of Paragraph 63. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph, other than as related to him after the fact by S.M.
64. The allegations of Paragraph 64 are admitted. Messer further states that he gave S.M. a full refund.

#### FIFTH CLAIM FOR RELIEF

65. Messer incorporates his responses to Paragraphs 1 through 12 in response to Paragraph 65.
66. The allegations of Paragraph 66 are denied upon information and belief, for the reason that Messer is informed and believes that LHG had ceased all business operations prior to the time frame of this Claim of Relief.

67. The allegations of Paragraph 67 are denied upon information and belief, for the reason that Messer is informed and believes that LHG had ceased all business operations prior to the time frame of this Claim of Relief.
68. The allegations of Paragraph 68 are denied upon information and belief, for the reason that Messer is informed and believes that LHG had ceased all business operations prior to the time frame of this Claim of Relief.
69. The allegations of Paragraph 69 are denied upon information and belief, for the reason that Messer is informed and believes that LHG had ceased all business operations prior to the time frame of this Claim of Relief.
70. The allegations of Paragraph 70 are denied upon information and belief, for the reason that Messer is informed and believes that LHG had ceased all business operations prior to the time frame of this Claim of Relief.
71. The allegations of Paragraph 71 are denied upon information and belief, for the reason that Messer is informed and believes that LHG had ceased all business operations prior to the time frame of this Claim of Relief.
72. The allegations of Paragraph 72 are denied upon information and belief, for the reason that Messer is informed and believes that LHG had ceased all business operations prior to the time frame of this Claim of Relief.
73. The allegations of Paragraph 73 are denied upon information and belief, for the reason that Messer is informed and believes that LHG had ceased all business operations prior to the time frame of this Claim of Relief.



## SIXTH CLAIM FOR RELIEF

74. Messer incorporates his responses to Paragraphs 1 through 12 in response to Paragraph 74.

75. Messer does not deny the allegations of Paragraph 75. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

76. Messer does not deny the allegations of Paragraph 76. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

77. Messer does not deny the allegations of Paragraph 77. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

78. Messer does not deny the allegations of Paragraph 78. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

79. Messer does not deny the allegations of Paragraph 79. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

80. Messer does not deny the allegations of Paragraph 80. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

81. Messer does not deny the allegations of Paragraph 81. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

82. Messer does not deny the allegations of Paragraph 82. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

83. Messer does not deny the allegations of Paragraph 83. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

## SEVENTH CLAIM FOR RELIEF

84. Messer incorporates his responses to Paragraphs 1 through 12 in response to Paragraph 84.

85. Messer does not deny the allegations of Paragraph 85. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

86. Messer does not deny the allegations of Paragraph 86. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

87. Messer does not deny the allegations of Paragraph 87. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

88. Messer does not deny the allegations of Paragraph 88. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

89. Messer does not deny the allegations of Paragraph 89. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

90. Messer does not deny the allegations of Paragraph 90. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

91. Messer does not deny the allegations of Paragraph 91. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

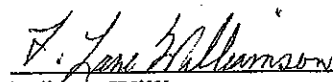
92. Messer does not deny the allegations of Paragraph 92. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

93. Messer does not deny the allegations of Paragraph 93. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

94. Messer does not deny the allegations of Paragraph 94. Messer further states that he has no personal knowledge of the allegations contained in this Paragraph.

WHEREFORE, Messer prays that the Hearing Panel take such action as may be appropriate, considering all mitigating factors in Messer's favor warranted by the evidence.

This 17<sup>th</sup> day of December, 2015.



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CERTIFICATE OF SERVICE

I certify that I have served the foregoing *Answer* on each of the parties to this action, or when represented, on opposing counsel by:

\_\_\_\_\_ Hand delivering a copy hereof to the attorney for each said party addressed as follows:

☒ Depositing a copy hereof in a first-class, postage-prepaid, properly-addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service, addressed to the attorney for each said party as follows:

\_\_\_\_\_ Depositing a copy hereof with a nationally recognized overnight courier service, for overnight delivery, addressed to the attorney for each said party as follows:


\_\_\_\_\_ Telecopying a copy hereof to the attorney for each said party as follows:

☒ Emailing a copy hereof to the attorney for each said party as follows:

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This 17<sup>th</sup> day of December, 2015.

  
\_\_\_\_\_  
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